

INFORMATION BULLETIN #93

INCOME TAX

AUGUST 2004

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SUBJECT: Ethanol Production Tax Credit

REFERENCES: IC 6-3.1-28

INTRODUCTION

P.L.224-2003, SECTION 200, effective January 1, 2004 provides a new tax credit for ethanol production. The credits can be applied against the sales tax, the adjusted gross income tax, the financial institutions tax, and the insurance premiums tax.

I. ETHANOL PRODUCTION TAX CREDIT

Ethanol is defined as agriculturally derived ethyl alcohol. A taxpayer that produces ethanol at a facility located in Indiana that has the capacity to

produce at least forty million (40,000,000) gallons of ethanol a year or which after December 31, 2003 increased its ethanol production capacity by at least forty million (40,000,000) gallons per year may qualify for the credit.

A taxpayer that produces ethanol is entitled to a credit against the taxpayer's state tax liability equal to the product of twelve and one-half cents (\$.125) multiplied by the number of gallons of ethanol produced at the Indiana facility.

The total amount of credits allowed a taxpayer may not exceed a total of five million dollars (\$5,000,000) for all taxable years. The total amount of credits for all taxpayers may not exceed ten million dollars (\$10,000,000) in all taxable years.

II. APPLICATION FORM AND APPROVAL OF THE TAX CREDIT

Taxpayers desiring to claim the ethanol production tax credit must file a claim for credit on Form EP-100 Ethanol Production Credit Application, which is available at the Department's web site (www.in.gov/dor/taxforms/f&eforms).

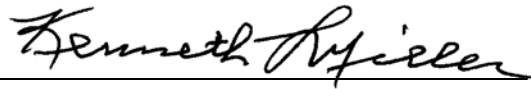
The claim for credit must be completed by the taxpayer and filed with the Department for approval. The "approved" claim will be returned to the applicant to be attached to all returns for which the credit is taken. The credit can be filed on a monthly, quarterly, semi-annual or annual basis depending on which tax type the taxpayer is claiming the credit against. Failure to submit the approved EP-100 with the tax return will result in the credit being denied by the Department.

III. ADMINISTRATION OF THE TAX CREDIT

Qualifying taxpayers include pass through entities such as S Corporations, partnerships, limited liability companies, and limited liability partnerships. If the pass through entity is entitled to a credit, but does not have state tax liability to which the credit can be applied, a shareholder, partner, or member of the pass through entity is entitled to the credit in the same percentage as the person's distributive income to which the person is entitled.

If the credit is applied against the taxpayer's adjusted gross income tax, financial institutions tax, or insurance premiums tax, the credit shall be taken on the annual return filed by the taxpayer. If the credit is applied against a taxpayer's sales tax liability, the taxpayer is required to obtain a direct pay permit in accordance with IC 6-2.5-8-9. A taxpayer may not take a credit against sales tax collected as a retail merchant, but may take a credit against use tax due on its taxable purchases.

If the credit claimed exceeds the taxpayer's state tax liability for the taxable year, the taxpayer may carry over the excess to the following taxable years. The taxpayer is not entitled to a refund or carryback of any unused credits.

A handwritten signature in cursive script, reading "Kenneth L. Miller", written in black ink.

Kenneth L. Miller
Commissioner